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1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE DISTRICT OF ALASKA AT ANCHORAGE

3           UNITED STATES OF AMERICA for the  
4           use of NORTH STAR TERMINAL &  
5           STEVEDORE COMPANY, d/b/a NORTHERN  
6           STEVEDORING & HANDLING, and NORTH  
7           STAR TERMINAL & STEVEDORE COMPANY,  
8           d/b/a Northern Stevedoring &  
9           Handling, on its own behalf,

10              Plaintiffs,

11              and

12           UNITED STATES OF AMERICA for the  
13           use of SHORESIDE PETROLEUM, INC.,  
14           d/b/a Marathon Fuel Service, and  
15           SHORE PETROLEUM, INC., d/b/a  
16           Marathon Fuel Service, on its own  
17           behalf,

18              Intervening Plaintiffs,

19              and

20           METCO, INC.,

21              Intervening Plaintiff,

22              vs.

23           NUGGET CONSTRUCTION, INC.; SPENCER  
24           ROCK PRODUCTS, INC.; UNITED  
25           STATES FIDELITY AND GUARANTY  
COMPANY; and ROBERT A. LAPORE,

Defendants.

No. A98-009 CIV (HRH)

DEPOSITION OF JEFFREY "JEFF" BENTZ  
Pages 1 - 221 (inclusive)

November 21, 2005  
8:33 a.m.

~~EXHIBIT 2~~  
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~~EXHIBIT 5~~  
Page 1 of 6 Pages

Page 2			Page 4		
1	I-N-D-E-X		1	JEFFREY "JEFF" BENTZ	NOVEMBER 21, 2005
2	EXAMINATION		2		
3			3		
4			4	PAGE	
5			5	BY MS. HO	6
6			6	BY MR. VIERGUTZ	209
7			7		
8			8	NUMBER	EXHIBITS
9			9		PAGE
10	Taken at:		10	1	Renotice of Deposition,
11	The Law Offices of Oles Morrison Rinker & Baker		11	2	6 pages
12	745 West 4th Avenue, Suite 502		12	3	North Star's Second
13	Anchorage, Alaska		13	4	Supplemental Disclosures,
14			14	5	7 pages
15			15	6	North Star's Responses to
16			16	7	Defendant's First Set of
17			17	8	Discovery Requests,
18			18	9	17 pages
19			19	10	
20			20		Copy of four business cards,
21			21		1 page
22			22		North Star's Amended Complaint,
23			23		26 pages
24			24		
25			25		Credit application and various
					documents, 9 pages
					Affidavit of Jack Goodwill,
					25 pages
					Current rates and invoices,
					9 pages
					Daily notes of operations,
					13 pages
					Invoices and timecards,
					34 pages
					115

Page 3			Page 5		
1	A-P-P-E-A-R-A-N-C-E-S		1	I-N-D-E-X, continued	
2	For Plaintiffs:		2	11	Material Contract, 4 pages
3	MR. MICHAEL W. SEWRIGHT		3	12	Support agreement, 1 page
4	Burr, Pease & Kurtz, PC		4	13	Bill of sale, 1 page
5	810 N Street		5	14	Letter to Army Corps of
6	Anchorage, AK 99501		6		Engineers, 8/4/97, 2 pages
7	(907) 276-6100		7	15	Copies of two business cards,
8	For Shoreline Petroleum:		8	16	1 page
9	MR. STEVEN J. SHAMBUREK		9	17	Letter from U.S. Army Corps of
10	Law Office of Steven J. Shamburek		10		Engineers, 8/21/97, 1 page
11	425 G Street, Suite 630		11		
12	Anchorage, AK 99501		12		
13	(907) 250-0044		13		
14	For Nugget Construction, Inc.:		14		
15	MS. GLORIA Y. HO		15		
16	MR. TRAEGER MACHETANZ		16		
17	Oles Morrison Rinker & Baker, PC		17		
18	745 West 4th Avenue, Suite 502		18		
19	Anchorage, AK 99501-2136		19		
20	(907) 258-0106		20		
21	For USF&G:		21		
22	MR. HERBERT A. VIERGUTZ		22		
23	Barokas Martin & Tomlinson		23		
24	1029 West 3rd Avenue, Suite 280		24		
25	Anchorage, AK 99501		25		
	(907) 276-8010				
	Also Present:				
	MR. JOHN SMITHSON, Nugget Construction				
	MR. DOUG LECHNER, Metoo, Inc.				
	Reported by:				
	LESLIE J. KNISLEY				
	Shorthand Reporter				

MIDNIGHT SUN COURT REPORTERS \* (907) 258-7100

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~~EXHIBIT 2~~

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1 Q And this purports to be a North Star  
 2 letter signed by Mr. Jack Goodwill, vice  
 3 president at the time for North Star, dated  
 4 August 4th, 1997 to the Army Corps of Engineers.  
 5 Do you disagree with that?  
 6 A Yes, I disagree with that.  
 7 Q In what way?  
 8 A He was vice president of Northern  
 9 Stevedoring and Handling, not North Star.  
 10 Q Now, when Jack Goodwill wrote this  
 11 letter on behalf of Northern Stevedoring and  
 12 Handling, at the time that was the legal entity  
 13 that was bringing suit against my client?  
 14 MR. SEWRIGHT: Object; calls for a  
 15 legal conclusion.  
 16 A You characterized Mr. Goodwill as being  
 17 the vice president of North Star.  
 18 BY MS. HO:  
 19 Q My prior statement, you have corrected  
 20 me. But I'll have you correct that Mr. Jack  
 21 Goodwill was vice president of Northern  
 22 Stevedoring and Handling, according to this  
 23 letter.  
 24 A That's correct.  
 25 Q And at that time, on August 4th, 1997,

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1 BY MS. HO:  
 2 Q That was what was presented by  
 3 Mr. Goodwill at the time, who was the vice  
 4 president of Northern Stevedoring and Handling,  
 5 to the U.S. Army Corps of Engineers on August  
 6 4th, 1997.  
 7 A What you've read is what's on this  
 8 letter, yes.  
 9 Q Okay. Do you disagree or -- strike  
 10 that.  
 11 To your knowledge did North Star ever  
 12 communicate to the U.S. Corps of Engineers about  
 13 its nonpayment of stevedoring services on the  
 14 Homer Spit project, other than this particular  
 15 letter to the U.S. Corps of Engineers?  
 16 A When they sent their investigators up  
 17 here.  
 18 Q Okay. Let me show you another exhibit.  
 19 (Exhibit 15 marked.)  
 20 BY MS. HO:  
 21 Q Take a moment to look at this Exhibit  
 22 No. 15. This particular document was disclosed  
 23 to me last Thursday when I was at Mr. Sewright's  
 24 offices reviewing documents.  
 25 Having looked at this document, it

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1 that particular company, Northern Stevedoring and  
 2 Handling, was the one notifying the Corps of  
 3 Engineers --  
 4 A That's correct.  
 5 Q Okay. Now, in the first paragraph it  
 6 says, and you may read along, "Northern  
 7 Stevedoring has been working for Spencer Rock  
 8 Products, Inc. from May 1st to June 26th, 1997.  
 9 In that time frame Northern loaded five barges of  
 10 rock for the Homer Spit."  
 11 Do you disagree with that, sir?  
 12 A Do I disagree with what this says? No.  
 13 Q With what Mr. Goodwill wrote in his  
 14 letter to the Army Corps of Engineers.  
 15 A Not so far.  
 16 Q Okay. And on page 2, in that last  
 17 paragraph Mr. Goodwill wrote to the Army Corps of  
 18 Engineers, "Northern Stevedoring did agree to  
 19 direct the invoices for loading the rock to the  
 20 ZB286 Nugget Construction barge, for the Army  
 21 Corps of Engineers Homer Spit upgrade to Spencer  
 22 Rock."  
 23 Do you disagree with that, sir?  
 24 MR. SEWRIGHT: Object, Counsel.  
 25 Disagree with that's what was written or that --

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1 appears to be copies of two business cards. One,  
 2 Michael C. Curran, C-u-r-r-a-n, Special Agent,  
 3 Department of the Army, Criminal Investigation  
 4 Command, San Francisco Fraud Field Office. And  
 5 it lists his address and telephone number.  
 6 That's the first name written there.  
 7 Do you see that, sir?  
 8 A Uh-huh.  
 9 Q And then the second on the bottom part  
 10 of the document says, Wilbert, W-i-l-b-e-r-t, M.  
 11 Craig, C-r-a-i-g, Special Agent, Department of  
 12 the Army, Criminal Investigation Command, and he  
 13 is at 33 New Montgomery Street, Suite 1840, San  
 14 Francisco, California 94105.  
 15 Is that what you see there too, sir?  
 16 A I see that.  
 17 Q Okay. Now, at any time did you or  
 18 anyone at North Star have conversations with  
 19 either Mr. Curran or Mr. Craig?  
 20 A Yes.  
 21 Q Do you recollect the time period of  
 22 this communication?  
 23 A I don't. They actually came to my  
 24 office.  
 25 Q They came to your office. You don't

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1 recollect the time period, but both these agents,  
 2 Mr. Curran and Mr. Craig, came to your office at  
 3 the same time or at separate times?

4 A I believe that both of them came at the  
 5 same time, and I believe it was these two  
 6 individuals.

7 Q Okay. Were there any other individuals  
 8 from the Corps of Engineers, Criminal  
 9 Investigation Command that came to you or North  
 10 Star?

11 A Not that I can remember.

12 Q Do you recall if it was just one  
 13 particular meeting or more than one meeting with  
 14 these two agents?

15 A I can recall one meeting. Whether  
 16 there was another one or not or whether they met  
 17 with somebody else or not, I don't know.

18 Q In that one meeting who do you recall  
 19 were present?

20 A Well, I know I was there and I know  
 21 there were two agents there, and I believe Mike  
 22 might have been there. And if memory holds me  
 23 true, don't hold me on this, but I think Steve  
 24 Brazier, who was my controller at the time, was  
 25 there.

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1 Q Can you spell his last name, please?

2 A It's B-r-a-z-i-e-r.

3 Q And is Mr. Brazier still with North  
 4 Star?

5 A No, he moved down south.

6 Q Do you happen to know his whereabouts?

7 A I don't currently.

8 Q Thank you.

9 A He was in Texas last I heard.

10 Q Now, do you have any knowledge of who  
 11 might have instigated this criminal  
 12 investigation?

13 A I don't recall all the facts behind it,  
 14 no.

15 Q Was it perhaps somebody within North  
 16 Star who would have contacted these agents?

17 A No, I don't believe -- we didn't start  
 18 the agent thing. We wrote the one letter to the  
 19 Corps and it was sometime after that, I recall,  
 20 that these agents showed up.

21 Q Okay. To your knowledge, do you think  
 22 somebody -- some representative from Metco might  
 23 have called the special agents?

24 A I don't know.

25 Q Would anybody within North Star know?

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1 A I don't know.

2 Q Do you know if Mr. LaPore was made  
 3 aware of these alleged investigations?

4 A I don't know.

5 Q What about Nugget? Are you aware that  
 6 Nugget was made aware of these alleged criminal  
 7 investigations?

8 A Only through reading the  
 9 correspondence. At the time I would not have  
 10 known.

11 Q Anybody else at North Star who might  
 12 have known?

13 A Not that I can think of.

14 Q Okay. Did you or anyone at North Star  
 15 receive any confirmation, either written or oral,  
 16 that an alleged criminal investigation would be  
 17 pursued after this meeting that you had with  
 18 these two agents?

19 A No, they didn't tell us what their plan  
 20 was.

21 Q Okay.

22 A I don't recall any specific comment  
 23 coming from them in that regard.

24 Q So to your recollection there were no  
 25 follow-up conversations with Mr. Curran or

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1 Mr. Craig?

2 A I'm not certain. This was a long time  
 3 ago.

4 Q Now, were you or anyone at North Star  
 5 ever made aware by the U.S. Corps of Engineers  
 6 that it, the U.S. Corps of Engineers, did not  
 7 know about the Support Agreement between Nugget  
 8 and Spencer Rock?

9 A I'm sorry. Can you ask the question  
 10 again?

11 Q Were you or anyone at North Star ever  
 12 made aware by the U.S. Corps of Engineers or by  
 13 anyone else that the U.S. Corps of Engineers did  
 14 not know about the Support Agreement between  
 15 Nugget and Spencer Rock? What I'm getting at --

16 MR. SEWRIGHT: Are you including  
 17 correspondence from the Corps?

18 MS. HO: Yes, correspondence from the  
 19 Corps.

20 A There's a letter that came back from  
 21 the Corps to Jack Goodwill.

22 MS. HO: Okay. Let's see.

23 MR. SEWRIGHT: I think there was also  
 24 correspondence between Nugget and the Corps, Ms.  
 25 Ho.

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EXHIBIT 2

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EXHIBIT S

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1 Q You bet. Why can't they?  
 2 A They can.  
 3 Q Why is it bad faith if they make that  
 4 choice?  
 5 MR. SEWRIGHT: Object to the form.  
 6 A I guess it depends how much knowledge  
 7 they have about the case. Early on in this case,  
 8 real early on, if I was USF&G, I might believe  
 9 what you just suggested might be one of the  
 10 possibilities, but I don't believe USF&G believes  
 11 that today.  
 12 BY MR. VIERGUTZ:  
 13 Q And then it says, "and/or refusal to  
 14 discuss settlement."  
 15 Again, you're a businessman. If you  
 16 get sued, you don't have to settle; you and I  
 17 have agreed on that, correct?  
 18 A Correct.  
 19 Q And so you don't even have to discuss  
 20 settlement with me if I sue you, do you?  
 21 MR. SEWRIGHT: Object to the form.  
 22 A Don't have to.  
 23 MR. SEWRIGHT: Calls for a legal  
 24 conclusion.  
 25 A I don't have to.

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1 WITNESS CERTIFICATE  
 2 JEFFREY "JEFF" BENTZ Taken November 21, 2005  
 3 I hereby certify that I have read the foregoing  
 deposition and accept it as true and correct,  
 4 with the following exceptions:

5 =====

6 PAGE LINE CORRECTION

7 \_\_\_\_\_  
 8 \_\_\_\_\_  
 9 \_\_\_\_\_  
 10 \_\_\_\_\_  
 11 \_\_\_\_\_  
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 22 \_\_\_\_\_

Date JEFFREY BENTZ

23  
 24 (Use additional paper to note corrections as needed,  
 signing and dating each page.) (LK)

25

1 Q No.  
 2 MR. VIERGUTZ: No further questions.  
 3 Thanks for your time.  
 4 MR. SHAMBUREK: I don't have any.  
 5 MR. SEWRIGHT: I have no questions.  
 6 We're done.  
 7 MS. HO: Right. Thanks for appearing.  
 8 (Proceedings concluded at 2:47 p.m.)  
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## REPORTER'S CERTIFICATE

1  
 2  
 3 I, LESLIE J. KNISLEY, Shorthand Reporter  
 4 and Notary Public in and for the State of Alaska do  
 5 hereby certify:

6 That the witness in the foregoing  
 7 proceedings was duly sworn; that the proceedings  
 8 were then taken before me at the time and place  
 9 herein set forth; that the testimony and proceedings  
 10 were reported stenographically by me and later  
 11 transcribed under my direction by computer  
 12 transcription; that the foregoing is a true record  
 13 of the testimony and proceedings taken at that  
 14 time; that the witness requested signature; and  
 15 that I am not a party to nor have I any interest in  
 16 the outcome of the action herein contained.

17 IN WITNESS WHEREOF, I have hereunto  
 18 subscribed my hand and affixed my seal this 15th  
 19 day of December, 2005.

20  
 21  
 22 LESLIE J. KNISLEY  
 23 Notary Public for Alaska  
 24 My Commission Expires: 12/31/06  
 25

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EXHIBIT 2

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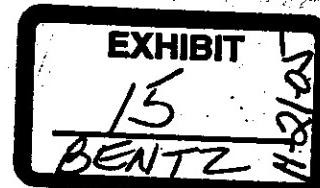
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45-40  
9/18/97

E-LIO

Department of the Army  
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Criminal Investigation Command**WILBERT M. CRAIG**  
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San Francisco, CA 94105-4511      FAX: (415) 744-0402EXHIBIT 5  
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